

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

GARY ROEMER,

Plaintiff,

vs.

No. CIV 22-0524 JB/JHR

BOARD OF REGENTS OF NEW MEXICO
STATE UNIVERSITY; DAN ARVIZU;
LAURA CASTILLE; DONALD CONNER;
ANNAMARIE DELOVATO; ROLANDO
FLORES and MATTHEW GOMPPER,
individually and in their official capacities,

Defendants.

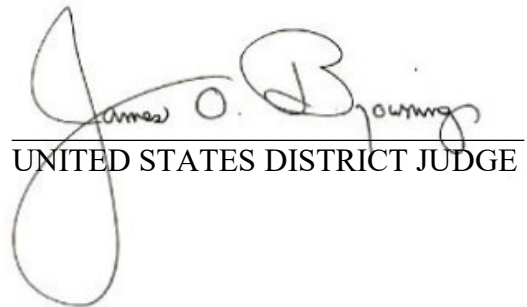
ORDER¹

THIS MATTER comes before the Court on the Plaintiff’s Motion for Partial Judgment on the Pleadings, filed February 14, 2023 (Doc. 42)(“Motion”). The Court held a hearing on June 16, 2023. See Clerk’s Minutes at 1, filed June 16, 2023 (Doc. 83). The primary issues are: (i) whether ARP 3.25 -- part of New Mexico State University’s anti-discrimination policy -- is facially overbroad with respect to the First Amendment of the Constitution of the United States; (ii) whether ARP 3.80 -- another New Mexico State University policy related to the prohibition of “various types of hostile misconduct” -- likewise is facially overbroad; and (iii) whether ARP 3.80 is facially vague in violation of the First Amendment. The Court concludes that both ARP 3.25 and ARP 3.80 are facially constitutional. Cf. Hooper v. People of State of Cal., 155 U.S. 648, 657 (1895)(“The elementary rule is that every reasonable construction must be resorted to in order to

¹This Order disposes of the Plaintiff’s Motion for Partial Judgment on the Pleadings, filed February 14, 2023 (Doc. 42). The Court will issue at a later date, however, a Memorandum Opinion more fully detailing its rationale for this decision.

save a statute from unconstitutionality.”). See United States v. Brune, 767 F.3d 1009, 1023 (10th Cir. 2014)(“[A]s between multiple reasonable interpretations of a statute, we will always prefer one that sustains constitutionality to one that does not under the presumption of constitutional validity.”). Accordingly, the Court denies the Motion.

IT IS ORDERED that the Plaintiff’s Motion for Partial Judgment on the Pleadings, filed February 14, 2023 (Doc. 42), is denied.



UNITED STATES DISTRICT JUDGE

Counsel:

Samantha Harris
Allen Harris PLLC
Narbeth, Pennsylvania

-- and --

Michael Thad Allen
Allen Harris PLLC
Quaker Hill, Connecticut

-- and --

Nicholas Thomas Hart
Harrison & Hart, LLC
Albuquerque, New Mexico

Attorneys for the Plaintiff

Cody R. Rogers
Serpe Andrews, PLLC
Las Cruces, New Mexico

*Attorneys for Defendant Board of Regents of New Mexico State University, Dan Arvizu,
Donald Conner, Annamarie DeLovato, Rolando Flores, and Matthew Gompper*

Michelle Lalley Blake
Allen Law Firm, LLC
Albuquerque, New Mexico

Attorneys for Defendant Laura Castille